

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 8

**999 18<sup>TH</sup> STREET- SUITE 300**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

2006 MAY 11 PM 2:43

FILED  
EPA REGION VII  
HEARING CLERK

**DOCKET NO.: SDWA-08-2006-0034**

IN THE MATTER OF:

## CENTER CREEK WATER SYSTEM

**f/k/a CENTER CREEK CULINARY WATER CO.  
and DUANE SWEAT**

RESPONDENT

## FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

DATE \_\_\_\_\_

Carol A. LeBoo, Acting  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2006 MAY 11 PM 2:43

IN THE MATTER OF:

Center Creek Water System fka Center Creek  
Culinary Water Co.  
and  
Duane Sweat

Respondents

)  
)  
) **COMBINED COMPLAINT AND**  
) **CONSENT AGREEMENT**  
)  
)  
)  
) Docket No. **SDWA-08-2006-0034**  
) PWS ID #UT4900477(UTAH26002)  
)  
)

Complainant, United States Environmental Protection Agency, Region 8 ("Complainant" or "EPA"), and Respondents, the Center Creek Water System fka Center Creek Culinary Water Co. and Duane Sweat ("Respondents"), by their undersigned representatives, hereby consent and agree as follows:

**PRELIMINARY STATEMENT**

1. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This combined complaint and consent agreement ("consent agreement") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. Complainant has jurisdiction over this matter pursuant to section 1414(g)(3) of the Safe Drinking Water Act, as amended ("Act"), 42 U.S.C. § 300g-3(g)(3).
3. Respondents admit the allegations contained herein in this consent agreement.

4. Respondents waive their right to a hearing before any tribunal, to contest any issue of law or fact set forth in this consent agreement.

5. This consent agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondents, and Respondents' officers, directors, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall not alter Respondents' responsibilities under this agreement.

6. This consent agreement contains all terms of the settlement agreed to by the parties.

7. The following general allegations apply to each count of this consent agreement.

8. Center Creek Water System fka Center Creek Culinary Water Company ("Respondent") is a corporation under the laws of the state of Utah, and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.

9. According to the Utah Department of Commerce, Corporations Division, records, Center Creek Culinary Water Company corporate status expired as of January 21, 2004.

10. Center Creek Water System reinstated as corporation on January 24, 2005, and is a corporation under the laws of the state of Utah, and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.

11. Duane Sweat ("Respondent") is an individual and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and 40 C.F.R. § 141.2.

12. Respondents own and/or operate a system, the Center Creek Water System (the "System"), located in Wasatch County, Utah for the provision to the public of piped water for human consumption.

13. The System regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

14. Respondents own and/or operate a public water system and are therefore "suppliers of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.

15. The System is supplied solely by a ground water source consisting of two springs, and serves approximately 200 persons through 70 service connections year-round.

16. The Utah Department of Environmental Quality has primary enforcement authority for the Act in the State of Utah (the "State"). On May 25, 2004, EPA issued a Notice of Violation pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g-3(a), to the State requesting that it enforce the violations at the Center Creek Water System within thirty (30) days. The State elected not to commence an appropriate enforcement action against the System for the violations within the thirty day time frame set forth in section 1414(a) of the Act, 42 U.S.C. § 300g-3(a).

17. On November 18, 2004, EPA issued an Administrative Order (Docket No. SDWA-08-2005-0002) to the Respondents pursuant to section 1414(g)(1) of the Act, 42 U.S.C. § 300g-3(g)(1), citing violations of the National Primary Drinking Water Regulations ("NPDWRs") (40 C.F.R. part 141). A copy of the Administrative Order is attached to this consent agreement and incorporated herein (Complainant's Attachment 1).

18. The Order required Respondents, among other things, to achieve compliance with the NPDWRs that Complainant found Respondents violated.

19. On March 18, 2005, EPA sent Respondents a "Violation of Administrative Order" letter citing Respondents' failure to comply with the Administrative Order and the NPDWRs. (Complainant's Attachment 2).

### **SPECIFIC ALLEGATIONS**

#### **Count I**

#### **Failure to Collect Five Routine Total Coliform Samples After Total Coliform Positive Sample in Preceding Month**

20. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than five routine samples per month and have one or more total coliform positive samples to collect at least five routine samples during the next month that the system provides water to the public

21. Page 8, paragraph 2 of the "Order" section of the Administrative Order required Respondents, upon the effective date of the Order, to comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5), specifically, if Respondents' System has one or more total coliform positive samples in a month, to collect at least five routine samples during the next month the system provides water to the public. The paragraph also required Respondents to report analytical results to EPA and the State within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

22. Respondents failed to collect at least five routine samples in February, 2005 after a total coliform positive sample in the preceding month and failed to report analytical results to EPA and the State, in violation of the Administrative Order and 40 C.F.R. §§ 141.21(b)(5) and 141.31(a).

**Count II**  
**Failure to Monitor Total Coliform Bacteria**

23. 40 C.F.R. § 141.21 requires a community public water systems to monitor the water at least once per month to determine compliance with the maximum contaminant level ("MCL") for total coliform bacteria as stated in 40 C.F.R. § 141.63.

24. Page 8, paragraph 3 of the "Order" section of the Administrative Order required Respondents to comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring to comply with the MCLs as stated in 40 C.F.R. § 141.63. The paragraph also required Respondents to report analytical results to EPA and the State within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

25. Respondents failed to monitor the System's water for contamination by total coliform bacteria during November 2005 and failed to report analytical results to EPA and the State, in violation of the Administrative Order and 40 C.F.R. §§ 141.21(a) and 141.31(a).

**Count III**  
**Failure to Monitor Nitrate**

26. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.

27. Page 9, paragraph 4 of the "Order" section of the Administrative Order required Respondents to comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at

40 C.F.R. § 141.62(b). The paragraph also required Respondents to report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

28. Respondents failed to monitor the System's water for nitrate in 2005 and failed to report analytical results to the State and EPA, in violation of the Administrative Order and 40 C.F.R. §§ 141.23(d) and 141.31(a).

29. Respondents failed to monitor nitrate until February 21, 2006 and failed to submit the results to the State and EPA, in violation of the Administrative Order and 40 C.F.R. § 141.31(a).

**Count IV**  
**Failure to Notify the Public**  
**of NPDWRs Violations**

30. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations.

31. Pages 10 - 11, paragraph 9 of the "Order" section of the Administrative Order required Respondents, within thirty days of the effective of the Order, to provide a public notice for the violations specified in the Administrative Order and to comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation and submit a copy of the public notice to EPA and the State within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

32. Respondents failed to provide notice to the public of the violations identified in the Administrative Order and subsequent violations of the Administrative Order, and failed to submit a copy of the public notice to EPA and the State, in violation of the Administrative Order and 40 C.F.R. §§ 141.201 and 141.31(d).

**Count V**  
**Failure to Report Noncompliance**  
**with NPDWRs to EPA**

33. 40 C.F.R. § 141.31(b) requires that except where a different period is specified by 40 C.F.R. part 141, public water systems shall report any failure to comply with the NPDWRs (40 C.F.R. part 141) to the State within 48 hours.

34. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to the State within ten days after the system discovers the violation.

35. Page 11, paragraph 10 of the "Order" section of the Administrative Order required Respondents to comply with 40 C.F.R. § 141.21(g)(2) by reporting to EPA and the State any failure to comply with coliform monitoring requirements within 10 days after the system discovers the violation.

36. Page 12, paragraph 11 of the "Order" section of the Administrative Order required Respondents to comply with 40 C.F.R. § 141.31(b) by reporting to EPA and the State any failure to comply with any NPDWR (40 C.F.R. part 141) within 48 hours.

37. Respondents failed to report to EPA and the State instances of noncompliance detailed in Counts I through IV, as set forth above, in violation of the Administrative Order and 40 C.F.R. §§ 141.21(g)(2) and 141.31(b).

**TERMS AND CONDITIONS**

38. Pursuant to section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), and based on the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is the amount of Two Thousand Six Hundred Dollars (\$2,600).



39. Respondents consent and agree to pay a civil penalty in the amount of Two Thousand Six Hundred Dollars (\$2,600) and in the manner described below in this paragraph:

- a. Payment is due within thirty (30) calendar days from the date written on the final order, issued by the Regional Judicial Officer, that adopts this consent agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM EST are processed on the next business day.
- b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," to:

**Regular Mail:**

Mellon Bank  
EPA Region 8  
(Regional Hearing Clerk)  
P.O. Box 360859  
Pittsburgh, PA 15251-6859

**Federal Express, Airborne, or other commercial carrier:**

U.S. EPA, 360859  
Mellon Client Service Center Room 154-0670  
500 Ross Street  
Pittsburgh, PA 15251-6859

**Wire Transfers:**

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004  
TREAS NYC/CTR/  
BNF=/AC-68011008

A copy of the check shall be sent simultaneously to:

Michelle Marcu (8ENF-L)  
Enforcement Attorney  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

and

Tina Artemis  
Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

- c. In the event payment is not received by the specified due date, interest accrues from the date of the final consent order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- e. Respondents agree that the penalty shall never be claimed as a federal or other tax deduction or credit.

40. Nothing in this consent agreement shall relieve Respondents of their obligations to comply with the Act and its implementing regulations.

41. Failure by Respondents to comply with any of the terms of this consent agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

42. Nothing in this consent agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondents' failure to perform pursuant to the terms of this agreement.

43. The undersigned representatives of Respondents certify that they are fully authorized by the parties represented to bind the parties to the terms and conditions of this consent agreement and to execute and legally bind that party to this consent agreement.

44. The parties agree to submit this consent agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

45. Each party shall bear its own costs and attorneys fees in connection with this matter.

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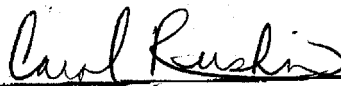
EPA LEGAL

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46. This consent agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the violations contained in this consent agreement.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8  
Complainant.

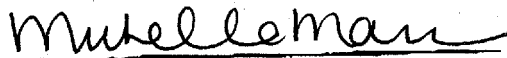
Date:

5/10/06

Carol Rushin

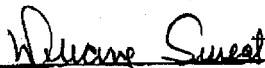
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Date:

5/13/06

Michelle Marcu  
Enforcement Attorney  
Legal Enforcement Program  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466  
Telephone Number: (303) 312-6921

Date:

5-8-06

Duane Sweet as an Individual and on behalf of  
Center Creek Water System fka Center Creek  
Culinary Water Company





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET - SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

NOV 18 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003-2260-0001-7778-5977  
RETURN RECEIPT REQUESTED

Duane Sweat, Registered Agent  
Center Creek Water System  
2636 Old Settlers  
Heber, UT 84032

Re: Administrative Order  
Docket No. SDWA-08-2005-0002  
PWS ID #UT4900477 (UTAH26002)

Dear Mr. Sweat:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Center Creek Water System (System) is a public water system as defined by the SDWA and that the owner/operator of the system has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21(b), 141.21(b)(5), 141.21(a), 141.23(d), 141.24(f), 141.26(b)(3), 141.23(c)(1), 141.24(h), 141.201, 141.21(g)(2), 141.31(b) for: failure to collect a set of repeat samples following a total coliform fecal positive routine sample; failure to collect at least five routine samples following a total coliform positive sample; failure to monitor for total coliform bacteria; failure to monitor for nitrate; failure to monitor for volatile organic chemicals; failure to monitor for radionuclides; failure to monitor for inorganic chemicals; failure to monitor for pesticides; failure to provide public notice of the violations; failure to report total coliform monitoring violations to State within 10 days of discovering the violation; and failure to report NPDWR violations to the State.

If the System owner complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate



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2.

such penalty for violating the regulations themselves, and/or  
(3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney or have legal questions, please call Michelle Jalazo at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

*for* *Melanie Hallman*

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures  
Order  
Public Notice template  
SBREFA

cc: Ken Bousfield, UT DEQ DW

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2004 NOV 18 AM 9: 33

IN THE MATTER OF )

Center Creek Culinary Water Co. )

And )

Duane Sweat )

PWS ID #UT4900477(UTAH26002) )

Respondents )

Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2005-0002

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Center Creek Culinary Water Co. ("Respondent") is a corporation under the laws of the state of Utah, and therefore a "person" within the meaning of 40 C.F.R. § 141.2. Duane Sweat ("Respondent") is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondents own and/or operate a system, the Center Creek Water System (the "System"), located in Wasatch County, Utah



for the provision to the public of piped water for human consumption.

3. The Center Creek Water System regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate a public water system and are therefore "suppliers of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a December 17, 2003, information report by the Utah Department of Environmental Quality, Respondents operate a system that is supplied solely by a ground water source consisting of two springs, and serves approximately 200 persons through 70 service connections year-round.
6. The Utah Department of Environmental Quality has primary enforcement authority for the Safe Drinking Water Act in the State of Utah (the "State"). On May 25, 2004, EPA issued a Notice of Violation to the State requesting that it enforce the violations at the Center Creek Water System within 30

days. The State chose not to commence enforcement for the violations.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of four repeat samples within 24 hours of being notified of a total coliform fecal positive routine sample.
2. Respondents failed to collect a set of four repeat samples after the October 2002 total coliform fecal positive routine sample, in violation of 40 C.F.R. § 141.21(b).

II.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than five routine samples per month and have one or more total coliform positive samples to collect at least five routine samples during the next month that the system provides water to the public.
2. Respondents failed to collect at least five routine samples in July 2002 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

III.

1. 40 C.F.R. § 141.21 requires a community public water systems to monitor the water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondents failed to monitor the System's water for contamination by total coliform bacteria during January 2002, January and May 2003, and February and April 2004, in violation of 40 C.F.R. § 141.21(a).

IV.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondents last monitored for nitrate in September 2004, but failed to monitor the water in 2000 and 2003, in violation of 40 C.F.R. § 141.23(d).

V.

1. 40 C.F.R. § 141.24(f) requires that community and non-transient, non-community water systems monitor the water annually to determine compliance with the MCLs for volatile organic contaminants as stated in 40 C.F.R. § 141.61.
2. Respondents last monitored for volatile organic contaminants in May 2004, but failed to monitor the water for volatile organic contaminants in 1999, 2000, 2001, and 2003 in violation of 40 C.F.R. § 141.24(f).

VI.

1. 40 C.F.R. § 141.26(b)(3) requires community water systems to monitor the water once every 4 years to determine compliance with the MCL for radioactivity, as stated in 40 C.F.R. § 141.15.

2. Respondents last monitored for radioactivity in December 1998 and failed to monitor the water in the four-year compliance period January 1, 1999 through December 31, 2002, in violation of 40 C.F.R. § 141.26(b)(3).

VII.

1. 40 C.F.R. § 141.23(c)(1) requires community and non-transient, non-community water systems utilizing groundwater sources to monitor the water once every 3 years to determine compliance with the MCL for inorganic contaminants as stated in 40 C.F.R. § 141.62.
2. Respondents last monitored for inorganic contaminants in May 2004, but failed to monitor the water in the three-year compliance period January 1, 2001 through December 31, 2003, in violation of 40 C.F.R. § 141.23(c)(1).

IX.

1. 40 C.F.R. § 141.24(h) requires all community and non-transient, non-community water systems to conduct initial sampling of the water consisting of four consecutive, quarterly samples during each three-year compliance period to determine compliance with the MCL for pesticide/herbicide organic contaminants as stated in 40 C.F.R. § 141.61(c).
2. Respondents failed to conduct initial sampling of the water for pesticide/herbicide organic contaminants consisting of four consecutive, quarterly samples during the three-year compliance period January 1, 1999 through December 31, 2001,

and has failed to conduct the first, second and third quarter sampling (January through March 2004, April through June 2004, and July through September 2004) for the three-year compliance period January 1, 2002 through December 31, 2004, in violation of 40 C.F.R. § 141.24(h).

X.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondents have not provided public notice of the noncompliance detailed in the preceding Sections I through IX, in violation of 40 C.F.R. § 141.201.

XI.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.
2. Respondents failed to report to the State instances of noncompliance detailed in Sections I through III above, in violation of 40 C.F.R. § 141.21(g)(2).

XII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to the State within 48 hours.
2. Respondents failed to report to the State instances of noncompliance detailed in Sections IV through X above, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondents shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondents take no fewer than four repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within five service connections upstream of the original total coliform positive tap, and c) from within five service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within five service

connections upstream or downstream of the original total coliform positive tap. Respondents shall report analytical results to the State and EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

2. Upon the effective date of this Order, Respondents shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondents' water system has one or more total coliform positive samples in a month, Respondents shall collect at least five routine samples during the next month the system provides water to the public. Respondents shall report analytical results to the State and EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

3. Upon the effective date of this Order, Respondents shall comply with the total coliform monitoring requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring. Respondents shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondents shall report analytical results to the State and EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

4. Upon the effective date of this Order, Respondents shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondents shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
5. Upon the effective date of this Order, Respondents shall comply with the volatile organic chemicals monitoring requirements as stated in 40 C.F.R. § 141.24 to determine compliance with the MCL for volatile organic contaminants (VOCs) appearing at 40 C.F.R. § 141.61. Respondents shall report analytical results to the State and EPA within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).
6. Within 30 days of the date of this Order, and according to the requirement of the regulations thereafter, Respondents shall monitor the water for radioactivity, as required by 40 C.F.R. § 141.26(a)(3). Respondents shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
7. Upon the effective date of this Order, Respondents shall comply with the inorganic chemicals monitoring requirements



as stated in 40 C.F.R. § 141.23(c) (1) to determine compliance with the inorganic MCL appearing at 40 C.F.R. § 141.62. Respondents shall report analytical results to the State and EPA within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).

8. No later than March 31, 2005, and for three additional quarters thereafter (April through June 2005, July through September 2005, and October through December 2005), and according to the requirements of the regulations thereafter, Respondents shall conduct quarterly monitoring to comply with the pesticide/herbicide organic chemicals monitoring requirements as stated in 40 C.F.R. § 141.40(h).

Respondents shall report analytical results to the State and EPA within the first 10 days following the month which results are received, as required by 40 C.F.R. § 141.31(a).

9. No later than 30 days from the effective date of this Order, Respondents shall provide a notice to the public of the violations listed in Sections I - IX in the Findings of Violation of this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.203, and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; AND

(2) any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, such as publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others, posting in public places served by the system or on the Internet, or delivery to community organizations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R.

§ 141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to the State and EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

10. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to the State and EPA within 10 days after the system discovers the violation.

11. Except where a different reporting period is specified in paragraph 10 above, upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to the State and EPA within 48 hours.
12. Reporting requirements specified in this Order shall be provided by certified mail to:

Melanie Wasco  
U. S. EPA Region 8 (8ENF-W)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and

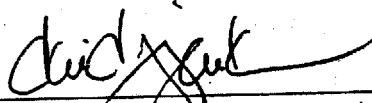
Ken Bousfield  
DEQ, Division of Drinking Water  
PO Box 144830  
Salt Lake City, UT 84114-4830

GENERAL PROVISIONS

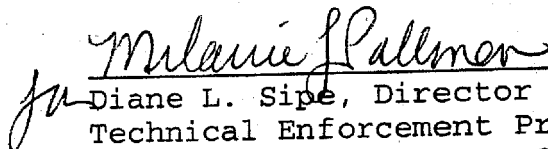
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), may subject the Respondents to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondents to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 18<sup>th</sup> day of November, 2004.



Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466

Ref: 8-ENF-W

MAR 18 2005

**CERTIFIED MAIL 7003-2260-0001-7791-0850**  
**RETURN RECEIPT REQUESTED**

Duane Sweat, Registered Agent  
Center Creek Water System  
2636 Old Settlers  
Heber, UT 84032

Re: Administrative Order Violation  
Docket No. SDWA-08-2005-0002  
PWS ID #UT4900477 (UTAH26002)

Dear Mr. Sweat:

On November 18, 2004, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order, Docket No. SDWA-08-2005-0002, ordering the Center Creek Water System ("the System") compliance with the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations, the National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141.

Our records indicate that the System is in violation of the Administrative Order ("the Order"). The Order requires the System to:

1. Upon the effective date of the Order, comply with the total coliform monitoring requirements of 40 C.F.R. § 141.21 to monitor the water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

EPA has not received total coliform sample results for the months of November and December 2004, and January and February 2005. If monitoring was completed, send the results to EPA immediately.

2. No later than 30 days from the effective date of the Order, and according to the requirement of the regulations thereafter, Respondents shall monitor the water for radioactivity, as required by 40 C.F.R. § 141.26(a)(3). Respondents shall report analytical results to the State and EPA within the first 10 days



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following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

EPA has not received radioactivity sample results for 2004. If monitoring was completed, send the results to EPA immediately.

3. No later than 30 days from the effective date of the Order, provide notice to the public of the violations detailed in the Order and submit a copy to EPA and the State within 10 days of completion of the public notice as required by 40 C.F.R. §§ 141.201, 141.203, 141.205, and 141.31(d).

EPA has not received a public notice from the Respondents for the violations outlined in the Order. If you conducted public notice, please provide a copy to EPA and the State immediately. If you have not yet conducted public notice, do so immediately and provide a copy to EPA and the State.

4. Comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA and the State within ten days after the system discovers the violation.

The failure to monitor bacteriological quality violations for the months of November and December 2004, and January and February 2005 were not reported to EPA and the State.

5. Comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA and the State within 48 hours.

The failure to monitor the water for radioactivity violation for 2004 was not reported to EPA and the State.

EPA is considering additional enforcement action as a result of your non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$32,500 per day per violation of the Order, and/or (2) a court injunction ordering you to comply.

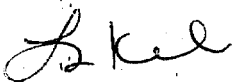


If you have any questions or wish to have an informal conference with EPA, you may contact Michelle Marcu, Enforcement Attorney, at (303) 312-6921 or at the following address:

Michelle Marcu, Enforcement Attorney  
U.S. EPA, Region 8 (8-ENF-L)  
999 18<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202-2466

We urge your prompt attention to this matter.

Sincerely,



Lisa Kahn, Team Leader  
Drinking Water Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

cc: Ken Bousfield, UT DEQ DW



## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT/CONSENT AGREEMENT/FINAL ORDER** in the matter of **CENTER CREEK WATER SYSTEM f/k/a CENTER CREEK CULINARY WATER CO. and DUANE SWEAT, DOCKET NO.: SDWA-08-2006-0034** was filed with the Regional Hearing Clerk on May 11, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Michelle Marcu, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on May 11, 2006, to:

Duane Sweat, Registered Agent  
Center Creek Water System  
2636 Old Settlers  
Heber, UT 84032

May 11, 2006



Tina Artemis  
Regional Hearing Clerk